IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

WRIT PETITION NO.1662 OF 2005

Dattaram Sitaram Nivalkar ..Petitioner

Vs.

Mr.Iqbal Kadir Katmale
and ors. ..Respondents

...

Mr.Sachin Punde for Petitioner
Mr.S.M.Railkar for Respondent nos.1 to 4

...

CORAM : B.H.MARLAPALLE,J.

DATE : MAY 2,2005

P.C.:

1. Heard the learned counsel for the Petitioner who is one of the Plaintiffs.

2. The lower Appellate Court while setting aside the order passed by the trial Court, has passed an equitable order on 10.3.2005 which has been impugned in this petition. The defendant nos.1 to 4 have been restrained from using cranes for sand dredging business at Survey No.164 Hissa No.2 of Gowalkot from 10 p.m. to 6 a.m. (i.e. in the night) so that the residents are not disturbed and there is no noise pollution at least in the night. The Court has further directed that the defendants to use only one crane at one time for unloading the barges and

transportation. It has been further directed to maintain the cranes properly so as to have minimum noise from their operation. The above said order cannot be said to be unreasonable or perverse and therefore, it does not call for any interference in a petition under Article 227 of the Constitution of India.

3. The petition is rejected summarily.

[B.H.MARLAPALLE,J.]